



POLICE DEPARTMENT CITY OF NEW YORK

October 7, 2016

MEMORANDUM FOR: Police Commissioner

Re: Detective Kim Morrison  
Tax Registry No. 919464  
32 Detective Squad  
Disciplinary Case No. 2015-14055  
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**Charges and Specifications:**

1. Said Detective Kim Morrison, while assigned to Internal Affairs Bureau, Group 10, on or about July 6, 2015, while on sick report, was wrongfully and without just cause absent from the confines of New York City or residence counties without permission of the District Surgeon and/or the Medical Division Sick Desk Supervisor.

P.G. 205-01, Page 6 - Additional Data - REPORTING SICK

2. Said Detective Kim Morrison, while assigned to Internal Affairs Bureau, Group 10, on or about July 6, 2015, engaged in conduct prejudicial to the good order and efficiency of the Department, to wit: said officer provided misleading statements to Police Officer Lukasz Skorzewski, of the Medical Division, when she informed him that she was at home when reporting sick, when in fact she was out of state.

P.G. 203-10, Page 1, Paragraph 5 – GENERAL REGULATIONS

3. Said Detective Kim Morrison, while assigned to Internal Affairs Bureau, Group 10, on or about July 6, 2015, engaged in conduct prejudicial to the good order and efficiency of the Department, to wit: after having been denied lost time for July 6, 2015, said Detective wrongfully requested and utilized the administrative sick leave report to extend her vacation.

P.G. 203-10, Page 1, Paragraph 5 – GENERAL REGULATIONS

**Appearances:**

For the Department: Penny Bluford-Garrett, Esq.  
Department Advocate's Office  
One Police Plaza  
New York, NY 10038

For Respondent:      Hugo Ortega, Esq.  
                                 Tanner & Ortega, LLP  
                                 30 Vesey Street – PH Suite  
                                 New York, NY 10007

**Hearing Dates:**

August 31 and September 1, 2016

**Decision:**

Specification 1: Not Guilty

Specifications 2 and 3: Guilty

**Trial Commissioner:**

ADCT Jeff S. Adler

**REPORT AND RECOMMENDATION**

The above-named member of the Department appeared before me on August 31 and September 1, 2016. Respondent, through her counsel, entered a plea of Not Guilty to the subject charges. The Department called Lieutenant David Wittman, Lieutenant Gareth Kentish, Police Officer Lukasz Skorzewski, Lieutenant Dominick Valenti and Police Officer Shamika Bolta-Rios as witnesses. Respondent testified on her own behalf. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

**DECISION**

After reviewing the evidence presented at the hearing, and assessing the credibility of the witnesses, I find Respondent not guilty of Specification 1, but guilty of Specifications 2 and 3.

**FINDINGS AND ANALYSIS**

On July 2, 2015, Respondent flew to New Orleans as part of her scheduled vacation. Respondent was approved for vacation from June 29 through July 3, and was RDO on July 4-5, but her request for two additional days for July 6-7 had been denied.

At about 1300 hours (New York time) on July 6, Respondent, from New Orleans, called both her command and the sick desk to inform them that she would not be able to work her tour that day, which was scheduled to begin at 1430 hours. Respondent explained that she needed to take a sick day. At issue is whether Respondent misrepresented to the sick desk that she was already back in New York as opposed to still being in New Orleans. The Department argues that Respondent deliberately falsified her whereabouts as part of a plan to extend her vacation, while Respondent maintains that she was legitimately ill, and that she did not intentionally misrepresent any information to her command or the sick desk.

Lieutenant Wittman, who was Respondent's team leader in Group 10 of IAB at the time of the incident, testified that on June 23, 2015, he spoke with Respondent about her vacation request. Respondent had submitted two "Leave of Absence Reports" that day, one requesting vacation from June 29, 2015 through July 3 (Dept. Ex. 1), and another requesting two additional days from July 6 through July 7 (Dept. Ex. 2).

Lieutenant Wittman confirmed with Lieutenant Donahue, the administrative lieutenant, that only the first request had been part of Respondent's annual vacation pick, and not the additional two days. Lieutenant Wittman testified he informed Respondent that the unit had insufficient coverage for July 6-7, and so that request was denied unless Respondent were able to switch with another member of the group to provide the necessary coverage. (Tr. 18-19, 22)

According to Lieutenant Wittman, Respondent walked away from him while he was still speaking, and with her back to him Respondent stated, "Well, I'm not going to be here." The lieutenant informed her that if she were not able to get coverage, he

expected her to be at work on those two days. Although Lieutenant Wittman testified on direct only about this one conversation, there was evidence from his July 16, 2015 Department interview that two days after their initial discussion he again spoke with Respondent, asking her if she had looked into getting coverage. Respondent stated, "Nope, it's fine", which the lieutenant interpreted as an indication that Respondent would be reporting to work as scheduled for those two days. (Tr. 20, 23, 43, 46-47)

Lieutenant Wittman acknowledged that during their time working together, he and Respondent had an "inconsistent" relationship. The lieutenant described how on one occasion, Respondent had refused to sign off on an unofficial list of expectations he had prepared for the unit (Resp. Ex. A), creating some tension between them. (Tr. 29-30, 50)

Lieutenant Kentish, who was a sergeant with Group 10 at the time of the incident, testified that about 1300 hours on July 6, 2015, he received a call from Respondent who stated that she was going to be out sick for her tour that day. The sergeant asked her for a log number from the Medical Division, but she informed him that she did not yet have one, and was calling because she needed to call the sick desk with a supervisor's name. At no time did Respondent mention to the sergeant that she was out of state in New Orleans, though he never specifically asked. (Tr. 57, 60, 72)

According to Lieutenant Kentish, Respondent also did not specify whether she was going "administrative sick" or "regular sick". Administrative sick days, which require approval of a supervisor, are for relatively minor conditions, and normally last only one or two days. Regular sick days, which do not require a command supervisor's approval, are for more serious illnesses, and necessitate a visit to the District Surgeon. Lieutenant Kentish explained that since Respondent was calling so close to her scheduled

tour time of 1430 hours, he thought she was going regular sick, since normally a request to go administrative sick is made at least two hours before the beginning of the scheduled tour. The lieutenant testified that their conversation lasted only about 30 seconds, and he told Respondent to call back with a log number and the name of the person she spoke with from the sick desk. (Tr. 58-59, 65, 69-70)

Officer Skorzewski testified that he was working the sick desk on July 6, 2015. The officer acknowledged that he had been demoted from detective and reassigned to the medical division after he pled guilty to a disciplinary charge connected with a trip to Seattle to speak with a witness. Although he had no specific recollection of speaking with Respondent on July 6, he did have a "Sick Report" reflecting a call from Respondent to go administrative sick for that day. (Department Ex. 3) (Tr. 92-95)

Officer Skorzewski explained that the normal procedure upon receiving a call from a member of the service seeking to go sick is to enter the member's tax identification number into the computer and verify the member's identity. In order to proceed with the computer input, the sick desk officer must then ask the member whether she is at her residence, which appears on the screen; if the member responds "no", the screen prompts the sick desk officer to fill in the address where the member will be. Officer Skorzewski testified that based on the information in the report, Respondent stated that she was at her residence; otherwise, the printed report would have looked different, including information on the alternate address where Respondent claimed to be. Further, Respondent did not say that she was out of state; if she had, Officer Skorzewski would not have been able to proceed with taking the report; a warning in red letters would have appeared on the screen directing him to notify a sick desk supervisor. Also,

if she had indicated that she was out of state, her request for an administrative sick day would have been denied. (Tr. 78, 83-86)

Lieutenant Valenti, the C.O. of the Absence Control and Investigations Unit, confirmed the procedure for when a member calls into the sick desk. The sick desk officer inputs the member's information on the computer, and a drop-down menu appears asking whether the member is at her residence. If "yes" is checked off, the form will appear as it does in Dept. Ex. 3; if "no" is checked, then additional information must be filled in, including the location where the member will be. Also, if the member reporting sick indicates that she is out of state, the sick desk officer will be prompted by a big, bold-lettered message on the computer to notify a sick desk supervisor, who would then notify the Absence Control Unit. According to Lieutenant Valenti, the general policy of the unit is to deny sick-leave requests from out of state unless the member is in the hospital and has an admission number, in which case approval would be for regular sick, never administrative sick. (Tr. 122-123, 126, 140, 150)

Lieutenant Valenti testified that on July 7, 2015, he called Respondent while she was at the airport to discuss her status. The lieutenant had been notified by a sick desk officer, Officer Bolta-Rios, that Respondent was out-of-state and requesting a second administrative sick day. Respondent told Lieutenant Valenti that she had received authorization from the sick desk officer the day before to go administrative sick for the day, and now was seeking a second administrative sick day. The lieutenant explained to her that she could not receive the sick day, and that she needed to notify her command to request an emergency day. (Tr. 127-128, 130, 139)

Respondent testified that her original vacation request was for June 29 through July 3, and she was RDO on July 4-5. However, in February, 2015, her travel companion made hotel reservations in New Orleans through July 7, and so Respondent purchased airline tickets with a July 7 return date. On June 23, 2015, Respondent submitted the two "Leave of Absence Reports" in evidence; the next day, the July 6-7 request was returned to her with a yellow post-it noting "insufficient coverage". When Respondent saw Lieutenant Wittman walk by, she asked him about her vacation request; rather than engage her in a conversation, the lieutenant walked off toward his cubicle, saying only that there was insufficient coverage. Respondent answered, "But I won't be here," to which the lieutenant merely repeated that she needed to find coverage. (Tr. 166-167, 189-191, 230)

Respondent testified that she decided not to attempt to get coverage, since in the past she did not have success with this approach. Instead, Respondent decided that she would get on a flight early on the morning of July 6, and arrive back in New York in time for her tour, scheduled to begin at 1427 hours. And so, when Lieutenant Wittman came by the next day to ask what she had decided, Respondent told him that she was fine. (Tr. 192-193)

On the night of July 5, Respondent went for a late seafood dinner. She returned to her room with the intention of getting a few hours of sleep before heading to the airport. Respondent acknowledged that she never bothered to check on the availability of specific flights, figuring she would just show up and find one. However, at about 0500-0600 hours (New Orleans time), Respondent started experiencing stomach pains and diarrhea. She noted that [REDACTED], and [REDACTED]

[REDACTED]. By about 1100 hours, the stomach pains had not subsided, and Respondent decided that she would call in sick rather than attempt to fly home that day. At the time, she was preoccupied with her illness, and overlooked the time difference in New York (where it was one-hour later). She called her command and asked for a lieutenant, but none was available. She spoke instead with Sergeant Kentish, who told her to call back with a control number. Though she has called out sick [REDACTED] Respondent claimed that she was not aware of any restrictions on taking administrative sick while being out of state. (Tr. 196-199, 240-244, 251-254)

After speaking with Sergeant Kentish, Respondent called the sick desk and spoke with Officer Skorzewski. Respondent testified that she told the officer that she was in New Orleans and looking to go sick, but since she had never done this before she didn't know what to do. According to Respondent, Officer Skorzewski told her that she could either go administrative sick or regular sick. Since she did not want to see a doctor in New Orleans, Respondent decided to start off on administrative sick, [REDACTED] [REDACTED]. Respondent maintained that she did not tell Officer Skorzewski that she was home, and insisted he never even asked or bothered to confirm her home address. (Tr. 200-202, 254-255) Respondent then called back to her command to give them the control number, but never told them where specifically she was, which was consistent with her normal practice. [REDACTED] [REDACTED]

[REDACTED] July 7, Respondent again planned to go to the airport to catch a flight back to New York. She called her command to notify them that she was going sick for a second



day, and to ask for a supervisor's name. Respondent then called the sick desk to request a second administrative sick day and again spoke with Officer Skorzewski, before being transferred to a female officer who apparently was Officer Bolta-Rios. When Officer Bolta-Rios asked her if she was going to be at her residence, Respondent told her that she was still in New Orleans, as she had told the officer the previous day. Officer Bolta-Rios informed Respondent that she could not be administrative sick while she was out of state, and told her to speak with Lieutenant Valenti. (Tr. 206-208, 261-264)

Respondent left a message with the lieutenant, and made her way to the airport; her diarrhea had subsided but she was still [REDACTED]. Lieutenant Valenti called her back, and Respondent explained her situation, but the lieutenant reiterated that she would not be granted an administrative sick day. He instructed her to call her command to request an emergency day, which she did. (Tr. 209-212, 267)

Respondent arrived back in New York at about 1800 hours on July 7, on the same flight she had originally booked. The following day she went to an urgent care center, and then went to the District Surgeon, who authorized Respondent to be regular sick for the remainder of the week. (Tr. 214, 266) [REDACTED]

[REDACTED]

[REDACTED]

Officer Bolta-Rios, who was working the sick desk on July 7, 2015, testified in rebuttal to Respondent's testimony. According to Officer Bolta-Rios, she was the one who answered the call directly from Respondent requesting a second administrative sick day. When Officer Bolta-Rios asked her whether she was going to stay at her residence,

Respondent said she should be there shortly. Officer Bolta-Rios asked her what she meant by "shortly", and Respondent explained that she was in New Orleans and on her way home. Officer Bolta-Rios informed Respondent that she could not get a sick day since she was out of state, and that Officer Bolta-Rios would need to notify the sick desk supervisor, which she did. (Tr. 275)

The crux of Respondent's alleged misconduct is encompassed in Specification 2, which accuses her of telling the Medical Division that she was at home when, in fact, she really was in New Orleans. The main witness in support of this allegation was Officer Skorzewski; his testimony, in conjunction with the "Sick Report" entered into evidence as Dept. Ex. 3, established that Respondent did, indeed, mislead the sick desk as to her whereabouts.

Counsel for Respondent argued that it was Officer Skorzewski who made the mistake here, by offering Respondent the option of going administrative sick after she had told him she was in New Orleans. Officer Skorzewski had no independent recollection of his conversation with Respondent on July 6. Instead, he relied on his general practice for when a member of the service called the sick desk, along with the Sick Report for Respondent that he generated that day. Further, counsel brought out Officer Skorzewski's prior disciplinary case where he was demoted from detective, although that matter was unrelated to his work with the Medical Division.

Notwithstanding the credibility issues raised by counsel, Officer Skorzewski came across as a sincere, reliable witness. With the aid of the Sick Report, he effectively reconstructed his conversation with Respondent, explaining how if she truly had stated that she was in New Orleans, their phone conversation would have moved in an entirely

different direction and the printed form would have looked markedly different. Had Respondent provided him with an out of state address, the computer would have prompted him to contact a supervisor, and her administrative sick request would have been denied. Further, the Sick Report would have contained the alternate address, unlike the one in evidence. Lieutenant Valenti, the C.O. of the Absence Control Unit, corroborated the officer's account as to the general sick desk procedure, and the inferences to be drawn based on the lack of an alternate address on the Sick Report.

In light of Officer Skorzewski's testimony, including his credible explanation regarding the contents of the Sick Report, the only reasonable conclusion is that on July 6 Respondent did not inform the sick desk that she was out of state. Respondent's self-serving claim that she told Officer Skorzewski she was in New Orleans is not persuasive, in light of the credible evidence suggesting otherwise. The record has established that Respondent provided misleading information to the Medical Division, and I find her guilty of Specification 2.

Specification 3 focuses on Respondent's alleged motivation for the misconduct in Specification 2. Specifically, it is alleged that Respondent wrongfully requested and utilized the administrative sick report in order to extend her vacation, after her earlier request for the two additional days had been denied. The Department Advocate argues that it was Respondent's "intent all along to extend her vacation by calling out administrative sick." It is suggested that Respondent formed the intent during her conversation with Lieutenant Wittman on or about June 23, when she told him, "I'm not going to be here."

Respondent denied having any such intent, maintaining that she was legitimately ill, as suggested by the medical records, and would otherwise have returned in a timely manner. She claimed that her comment to Lieutenant Wittman was not indicative of an intent to defy the lieutenant; she merely was bringing to his attention that her vacation plans would prevent her from being at work on July 6. Respondent also insisted her intention was to find an alternative flight that would have allowed her to make it to work as scheduled on July 6.

Despite her self-serving claims to the contrary, this tribunal finds that when Respondent contacted the sick desk on July 6, she deliberately misled them as to her whereabouts in order to extend her vacation. She did so after her request for an extension had been denied in June. Her decision not to be truthful with the sick desk on July 6 allowed Respondent, for the moment, to avoid any complications with her desire to remain in New Orleans an additional day. By July 7, when she finally did reveal her correct location, she already was on her way home. It is a stretch to suggest that it was just a coincidence that Respondent ultimately flew back on the exact flight she had originally booked; more likely than not, it worked out that way by design. Indeed, Respondent never even made any inquiries to determine the availability of an alternative flight. Under the circumstances, the only reasonable explanation for her misstating her location on July 6 was to extend her vacation, and I find Respondent guilty of Specification 3.

Specification 1 alleges that Respondent, while on sick report, was absent from the confines of New York City without appropriate permission, in violation of "Patrol Guide section 205-01, page 6, Additional Data". When asked for clarification as to the source

of this charge, the Department Advocate produced a six-page copy of the Patrol Guide section, dated January 1, 2000. Indeed, the first specification does track the language contained in this document, which states in part: "A uniformed member of the service on sick leave may not leave the confines of the City or residence counties without the approval of the Chief of Personnel."

However, this section of the Patrol Guide was updated effective August 1, 2013. The updated section, which is much closer in time to the incident in this case, no longer contains the quoted provision. Rather, the restrictions on leaving the city were at the time of the incident covered by Operations Order 22, "Pilot Program -- Home Confinement While On Sick Leave", issued March 31, 2011. In that order, qualified members were permitted to leave their residence during times that are outside their regularly scheduled tour of duty. The order notes, however, that this permission is limited in scope: uniformed members on sick report still may not *leave* the confines of the City and/or residence counties, even on their RDO's, without first obtaining permission from the Chief of Personnel.

Strictly speaking, the credible evidence was insufficient to establish that this section is applicable to the facts of this case, where Respondent already was out of state at the time she called in sick. To be sure, there was misconduct by Respondent here, for informing the sick desk that she was home when she really was in New Orleans; that misconduct was captured by Specifications 2 and 3. The charge articulated in Specification 1 does not fit the fact-pattern in this matter, and I find Respondent not guilty.

## PENALTY RECOMMENDATIONS

In order to determine an appropriate penalty, Respondent's service record was examined. See *Matter of Pell v. Board of Education*, 34 NY 2d 222 (1974). Respondent was appointed to the Department on April 21, 1997. Before that, she was a Police Administrative Aide, appointed on August 1, 1990. Information from her personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum. In 1991, while serving as a PAA, Respondent forfeited two (2) vacation days after being charged with forcibly stealing property, causing injury to the face and body of another individual, endangering the welfare of a child, and harassing an individual.

Respondent has been found guilty of two of the three specifications, for informing the sick desk that she was home when she really was in New Orleans, thereby extending her vacation. The Department Advocate asks that Respondent forfeit thirty (30) vacation days as an appropriate penalty. In support of this recommendation, the Advocate cited two cases, *Disciplinary Case No.* [REDACTED] (eight-year officer with no disciplinary history negotiated penalty of thirty (30) vacation days for traveling to Ireland without permission and failing to report to the Medical Division after reporting sick), and *Disciplinary Case No.* [REDACTED] (eight-year officer with no disciplinary history forfeited twenty-five (25) vacation days for traveling to Pennsylvania while on sick leave; in that case, respondent admitted that he lied on the phone to the investigating sergeant, falsely claiming he was on Long Island). On the issue of an appropriate penalty for misrepresenting one's whereabouts, additional guidance can be found from *Disciplinary Case No.* [REDACTED] where a 16-year officer with no disciplinary history negotiated a penalty of twenty (20) vacation days for falsely

reporting sick, claiming to be at his residence when he actually was in Trinidad for his aunt's funeral; that respondent also pled guilty to unrelated charges involving his failure to notify IAB regarding an allegation of corruption involving another member of the service.


Here, Respondent deliberately misled the sick desk in order to extend her vacation. Respondent claimed she was going to try to catch an earlier flight back to New York, but there is no credible evidence that she actually made any good faith efforts to find such a flight and get back to work in a timely manner. The "not guilty" finding on Specification 1 was technical in nature, and does not mitigate Respondent's culpability here. Taking into account the totality of the circumstances and issues in this matter, including Respondent's disciplinary history and the legal precedent, I recommend that Respondent forfeit twenty-five (25) vacation days as an appropriate penalty.

Respectfully submitted,



Jeff S. Adler  
Assistant Deputy Commissioner Trials

**APPROVED**

DEC 09 2016  
  
JAMES P. O'NEILL  
POLICE COMMISSIONER



POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner Trials

To: Police Commissioner

Subject: CONFIDENTIAL MEMORANDUM  
DETECTIVE KIM MORRISON  
TAX REGISTRY NO. 919464  
DISCIPLINARY CASE NO. 2015-14055

Respondent was appointed to the Department as a Police Officer on April 21, 1997. She had previously been appointed as a Police Administrative Aide on August 1, 1990 under Tax Registry No. 325472. She resigned from that position on November 26, 1994. Her last three annual performance evaluations were as follows: Respondent received 4.0 overall ratings of "Highly Competent" in 2014 and 2015, and a 3.5 rating of "Highly Competent/Competent" in 2013. [REDACTED]

Respondent has no prior disciplinary history during her tenure as a Police Officer. In 1991, while serving as a PAA, she was charged with (i) forcibly stealing property with the aid of another person; (ii) causing physical injury to an individual's face and body; (iii) endangering the welfare of a child; and (iv) striking, shoving or kicking an individual with the intent to harass or annoy. She forfeited two (2) vacation days. Respondent was placed on Level 1 Discipline Monitoring on July 18, 2016. That monitoring remains ongoing.

For your consideration.

Jeff S. Adler  
Assistant Deputy Commissioner Trials